

U.S. DEPARTMENT OF LABOR  
Employment and Training Administration  
Washington, D.C. 20210

REPORT ON STATE LEGISLATION

REPORT NO. 2  
October 2014

<b>LOUISIANA</b>	HB 315 (Act No. 550)	ENACTED June 9, 2014 EFFECTIVE August 15, 2014
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Extensions and Special Programs

Repeals the statutes for shared-work plans.

<b>MICHIGAN</b>	SB 934 (Act No. 138)	ENACTED and EFFECTIVE May 27, 2014
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Nonmonetary Eligibility

Increases the minimum wage incrementally from \$7.40 to \$9.25 by January 1, 2018 and establishes requirements for compensatory pay. Provides that a terminated employee's receipt of or eligibility to receive compensatory monetary compensation shall not be used by either the employer to oppose the employee's application for unemployment compensation or by the state to deny or diminish the employee's entitlement for unemployment compensation.

<b>MINNESOTA</b>	HB 2536 (CH 239)	ENACTED May 11, 2014 EFFECTIVE October 5, 2014
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Nonmonetary Eligibility

Provides that an applicant who quit employment is eligible for unemployment benefits when the applicant quit because domestic abuse, sexual assault, or stalking of the applicant or an immediate family member of the applicant necessitated the applicant's quitting the employment.

Provides that employment misconduct is not conduct that was a consequence of the applicant or an immediate family member of the applicant being a victim of domestic abuse, sexual assault, or stalking.

Provides that "domestic abuse" has the meaning given in Section 518B.01; "sexual assault" means an act that would constitute a violation of Sections 609.342 to 609.3453 or 609.352; and "stalking" means an act that would constitute a violation of Section 609.749.

Deletes the following provisions: Domestic abuse must be shown by one or more of the following: (i) a district court order for protection or other documentation of equitable relief issued by a court; (ii) a police record documenting the domestic abuse; (iii) documentation that

the perpetrator of the domestic abuse has been convicted of the offense of domestic abuse; (iv) medical documentation of domestic abuse; or (v) written statement that the applicant or an immediate family member of the applicant is a victim of domestic abuse, provided by a social worker, member of the clergy, shelter worker, attorney at law, or other professional who has assisted the applicant in dealing with the domestic abuse. Domestic abuse for purposes of this clause is defined under Section 518B.01.

(The domestic violence provisions apply to all determinations and appeal decisions issued on or after October 5, 2014.)

**MISSISSIPPI**

HB 140  
(CH 350)

ENACTED March 17, 2014  
EFFECTIVE July 1, 2014

Financing

Provides that benefits paid to an eligible individual shall not be charged against the experience rating record of an employer if the employee voluntarily left the employ of the employer to accept other work.

**MISSISSIPPI**

SB 2876  
(CH 49)

ENACTED April 15, 2014  
EFFECTIVE July 1, 2014

Financing

Appropriates Reed Act money in the amount of \$38 million to pay for expenses of administration for the following purposes:

(a) Payment of various One-Stop administration expenses that support the service delivery of employment and workforce information services. This includes, but is not limited to, the following activities:

(i) Staff for delivery of reemployment services to unemployment insurance claimants, including group job search assistance and staff-assisted referrals to jobs.

(ii) Equipment and resources for resource rooms.

(iii) Payment for rent, utilities, and maintenance of facilities, including common spaces such as resource rooms, reception areas, conference areas, etc.

(iv) Payment of shared costs for operation of local One-Stop Career Centers, including payment for One-Stop operators.

(v) Purchase of computer equipment, network equipment, telecommunications equipment, application development, and other technology resources.

(vi) Training, technical assistance, and professional development of staff who deliver

employment and workforce information services.

(vii) Access improvement costs for individuals with disabilities, including remodeling or retrofitting One-Stop Career Centers and purchasing appropriate software, hardware, furniture, and supplies.

(b) Administration of the unemployment compensation law and its public employment service offices. This includes, but is not limited to, the following uses:

(i) Employment services and unemployment insurance automation, including purchases, modifications, or automation of computer-related systems and related costs.

(ii) Unemployment insurance and employment service performance improvement costs.

(iii) Fraud and abuse reduction costs.

(iv) Unemployment insurance claims filing and payment methods improvement costs.

(v) Under the direction of the Bureau of Building, Grounds, and Real Property Management to acquire lands and construct buildings thereon or improve existing buildings to be used as offices. The funds authorized shall be requisitioned by the Mississippi Department of Employment Security from the Unemployment Trust Fund maintained by the Secretary of the Treasury of the United States as needed for the payment of obligations incurred under this appropriation, and such monies shall be deposited in the Employment Security Administration Fund.

**NEW JERSEY**

**AB 4189  
(CH 279)**

**ENACTED and EFFECTIVE January 17, 2014**

### Extensions and Special Programs

Amends the shared work program as follows:

- Defines “affected unit” to mean a specified plant or other facility, department, shift or other definable unit which includes two or more employees to which an approved short-time benefits program applies.
- Defines “division” to mean the Division of Unemployment and Temporary Disability Insurance of the Department of Labor and Workforce Development, or any representative of the division responsible for approval or other division responsibilities regarding a shared work program.
- Defines “health insurance and pension coverage” to mean employer-provided health benefits, and retirement benefits under a defined benefit plan as defined in Section 414(j) of the Internal Revenue Code (26 U.S.C. 414(j)), or employer contributions under a defined contribution plan, as defined in Section 414(i) of the Internal Revenue Code (26 U.S.C. 414(i)), which are incidents of employment in addition to the cash remuneration earned.

- Defines “shared work employer” to mean an employer who is providing a shared work program approved by the division pursuant to the required criteria.
- Defines “shared work program” to mean a program submitted by an employer for approval by the division pursuant to section 2 of P.L.2011, c.154 (C. 43:21-20.4) and approved by the division, under which the employer requests short-time benefits to employees in an affected unit of the employer to avert layoffs.
- Defines “short-time benefits” to mean unemployment benefits payable to employees of an affected unit under an approved shared work program that are intended to be in lieu of layoffs (previously, temporary layoffs) and provided pursuant to the amended shared work provisions, as distinguished from unemployment benefits otherwise payable under the New Jersey “unemployment compensation law,” R.S. 43:21-1 et seq.
- Defines “usual weekly hours of work” to mean the usual hours of work for an employee in the affected unit when that unit is operating on its regular basis, not to exceed 40 hours and not including hours of overtime work.
- Deletes the definition of “full-time hours” meaning not less than 30 and not more than 40 hours per week.
- Provides that an employer who has not less than 10 employees (previously, not less than 10 employees who are each employed for not less than 1,500 hours per year) may apply to the division for approval to provide a shared work program, the purpose of which is to stabilize the employer’s work force during a period of economic disruption by permitting the sharing of the work remaining after a reduction in total hours of work. Any subsidizing of seasonal employment during off season, or of temporary or intermittent employment (previously, or of employers who traditionally use part-time employees, or of temporary part-time employment) on an ongoing basis, is contrary to the purpose of a shared work program approved pursuant to the shared work amendments. The application for a shared work program shall be made according to procedures and on forms specified by the division and shall include whatever information the division requires. The division may approve the program for a period of not longer than one year and may, upon employer request, renew the approval of the program for additional periods, each period not to exceed one year (previously, annually). The division shall not approve an application unless the employer:

a. (1) Certifies to the division that the aggregate reduction in work hours is in lieu of layoffs; (2) provides an estimate of the number of employees who would have been laid off in the absence of the program; and (3) certifies that the employer will not hire additional (previously, part-time or full-time) employees while short-time benefits are being paid;

b. Certifies to the division that health insurance or pension coverage, paid time off, or other benefits, including retirement benefits under a defined benefit plan, as defined in Section 414(j) of the Internal Revenue Code (26 U.S.C. 414(j)), or employer contributions under a defined contribution plan, as defined in Section 414(i) of the Internal Revenue Code (26 U.S.C. 414(i)), will continue to be provided to any employee (previously, to participating employees before the application was made, or to any employee) whose workweek is reduced under the program, that those benefits will continue to be provided to employees participating in the program under the same terms

and conditions as though the workweek of the employee had not been reduced or to the same extent as other employees not participating in the program, except that employer contributions to a defined contribution plan, as defined in Section 414(i) of the Internal Revenue Code (26 U.S.C. 414(i)), may be reduced in proportion to the reduction of weekly hours, and certifies to the division that the employer will not make unreasonable revisions of workforce productivity standards;

c. Certifies to the division that any collective bargaining agent representing the employees has entered into a written agreement with the employer regarding the terms of the program, including terms regarding attendance in training programs while receiving short-time benefits, and provides a copy of the agreement to the division;

d. Provides, in the application, the effective date and duration of the program, a description of the affected unit or units covered by the program, including the number of employees in each unit, the percentage of employees in the affected unit covered by the program, identification of each individual employee in the affected unit by name, social security number, and the employer's unemployment tax account number, and any other information required by the division to identify program participants;

e. Provides, in the application, a description of how the employees in the affected units will be notified of the employer's participation in the shared work program if the application is approved, including the means of notification for employees who are members of collective bargaining units and employees who are not members of a collective bargaining unit;

f. Identifies the usual weekly hours of work for the employees of the affected unit and the specific percentage by which their hours will be reduced during all weeks covered by the program;

g. Certifies that participation in the program and its implementation is consistent with the employer's obligations under all applicable federal and State laws; and

h. Agrees to provide the division with any reports or other information, including access to employer records, the division deems necessary to administer the shared work program and monitor compliance with all agreements and certifications required pursuant to the shared work program amendments.

- Provides that the division shall approve or disapprove the program in writing not more than 60 days after receipt of the application and promptly communicate the decision to the employer. A decision disapproving the application shall clearly identify the reasons for the disapproval. The disapproval shall be final, but the employer shall be permitted to submit another application for approval of a plan not earlier than 60 days from the date of disapproval.
- Provides that the division, on its own initiative or upon request of the affected unit's employees, may revoke approval of an employer's application previously granted (previously for good cause shown) for any failure to comply with any agreement or

certification required pursuant to the shared work program amendments, or any other conduct or occurrences which the division determines to defeat the purpose, intent, and effective operation of a shared work program. The notice of revocation shall be in writing and shall specify the reasons for the revocation and the date on which the revocation is effective.

- Provides that an employer may request modifications of an approved shared work program by filing with the division a written request identifying the specific proposed modifications and explaining the need for the modifications. The division shall approve or disapprove the modifications within 30 days and promptly communicate to the employer the division's decision and the date on which the modification will take effect. The employer is not required to obtain division approval to make a plan modification which is not substantial, but is required to provide prompt, written notice of the modification to the division, which shall require the employer to request division approval of the modification if the division finds the modification to be substantial. The division may terminate the program if the employer fails to provide the required notice.
- Provides that an individual who is employed by an employer with a shared work program approved by the division shall be eligible for short-time benefits during a week if:

a. The individual works for the employer at an affected unit less than the individual's usual weekly (previously, normal full-time) hours of work, and the employer has reduced the individual's weekly hours of work pursuant to a shared work program in effect during that week and approved by the division pursuant to section 2 of this act;

b. The percentage of the reduction of the individual's work hours below the individual's usual weekly (previously, normal full-time) hours of work is not less than 10 percent and not more than 60 percent, with a corresponding reduction of wages;

c. The individual would be eligible for unemployment benefits other than short-time benefits during the week, if the individual was entirely unemployed during that week and applied for unemployment benefits other than short-time benefits; and

d. During the week, the individual is able to work and is available for the individual's usual weekly (previously, normal full-time) hours of work with the shared work employer or is participating in a training program approved by the division, including division-approved employer-sponsored training, division-approved training funded under the Workforce Investment Act of 1998, Pub.L.105-220 (29 U.S.C. s.2801 et seq.) or the Workforce Development Partnership program established pursuant to section 4 of P.L.1992, c.43 (C.34:15D-4), or any other training approved by the division pursuant to subsection (c) of R.S.43:21-4.

- Provides that, if the individual complies with the requirements of the amendments in the above paragraph, the individual shall not be subject to any other requirement of the "unemployment compensation law," R.S.43:21-1 et seq., to be available for work and actively seeking work.
- Deletes the provision which provides that an individual who is employed by an employer with a shared work program approved by the division shall be eligible for short-time

benefits during a week if the individual was employed by the employer for not less than 1,500 hours during the individual's base year.

- Provides that the amount of short-time benefits paid to an eligible individual shall, for any week, be equal to the individual's weekly benefit rate multiplied by the percentage of reduction of his wages resulting from reduced hours of work. The weekly benefit amount shall be rounded off to the nearest dollar. An individual shall not be paid short-time benefits for more than 52 weeks (previously, in excess of 26 weeks during a benefit year) under a shared work program. Weeks of short-time benefits may be nonconsecutive. An individual shall not receive short-time benefits during any benefit week in which the individual receives any other unemployment benefits, with respect to the employment with the shared work employer.
- Provides that total unemployment benefits paid to an individual during any benefit year, including short-time benefits and all other unemployment benefits, shall not exceed the maximum amount to which the individual is entitled for all unemployment benefits other than short-time benefits.
- Provides that the following shall apply to an individual who is employed by both a shared work employer and another employer during weeks covered by a shared work program:

a. If combined hours of work in a week for both employers result in a reduction of less than 10 percent of the usual weekly hours of work with the shared work employer, the individual shall not be entitled to benefits under the shared work program;

b. If combined hours of work in a week for both employers results in a reduction of 10 percent or more of the usual weekly hours of work with the shared work employer, the short-time benefit payable to the individual shall be reduced for that week and be determined by multiplying the weekly unemployment benefit amount for a week of total unemployment by the percentage by which the combined hours of work have been reduced by 10 percent or more of the individual's usual weekly hours of work; and

c. If the individual worked a reduced percentage of the usual weekly hours of work for the shared work employer and is available for all of his usual hours of work with the shared work employer, and the individual did not work any hours for the other employer, either because of a lack of work with that employer or because the individual is excused from work with the other employer, the individual shall be eligible for short-time benefits for that week.

- Provides that an individual who is not provided any work during a week by a shared work employer or any other employer and is otherwise eligible for unemployment benefits shall be eligible for the full amount of regular unemployment benefits to which the individual otherwise would be eligible. An individual who is not provided any work during a week by a shared work employer, but who works for another employer and is otherwise eligible for unemployment benefits shall be eligible for regular unemployment benefits for that week subject to the disqualifying income and other provisions applicable to claims for regular unemployment benefits.
- Provides that an individual who has received all of the short-time benefits or a combination of all of the short-time benefits and regular unemployment benefits available

in a benefit year shall be considered to be an exhaustee for the purposes of any extended benefits provided pursuant to the provisions of the "Extended Benefits Law," sections 5 through 11 of P.L.1970, c.324 (C.43:21-24.11 et seq.) and, if otherwise eligible under those provisions, shall be eligible to receive extended benefits.

- Provides that a shared work program and payment of short-time benefits to individuals under the program go into effect on the date mutually agreed upon by employer and the division (previously, shall begin with the first week following approval of an application by or the first week specified by the employer, whichever is later). A shared work program shall expire on the date specified in the notice of approval, which shall be either the date at the end of the 12th full calendar month after its effective date or an earlier date mutually agreed upon by the employer and the division. The program shall also expire upon the date of any revocation of approval of the program by the division. An employer of an approved program may terminate the program at any time upon written notice to the division, and the division shall notify participating employees of the affected unit of the termination. If a shared work program expires or the employer terminates the program, the employer may, at any time after the expiration or termination date, submit a new application for division approval of another shared work program.
- Provides that any short-time benefits paid to an individual shall be charged in the same manner as other unemployment benefits pursuant to the "unemployment compensation law," R.S.43:21-1 et seq. (Previously, all short-time benefits paid to an individual shall be charged to the account of the shared work employer by which the individual is employed while receiving the short-time benefits. If the shared work employer is liable for payments in lieu of contributions in the case of other unemployment benefits, that employer shall be liable for payments in lieu of contributions for the entire amount of the short-time benefits paid.)
- Provides that, if the U.S. Department of Labor finds any provision of this amendment to be in violation of federal law, that provision of this amendment shall be inoperative.

**OKLAHOMA**

HB 2914  
(CH 221)

ENACTED May 6, 2014  
EFFECTIVE November 1, 2014

### Financing

Provides that a registered Professional Employer Organization (PEO) is a coemployer with its client whose covered employees are under the direction and control of the client. Entities that are not registered under the Oklahoma Professional Employer Organization and Registration Act shall be considered a third-party administrator and will be required to obtain a power of attorney to obtain information from the client's account.

Requires a PEO to file quarterly reports and pay contributions for all clients under one account unless the PEO elects in writing by January 1, 2015, to file quarterly reports and pay contributions by the Commission-assigned client account number. Requires the PEO to assist the Commission in the process of separation and identification of client contribution history if this option is elected. After the initial election or assignment, a PEO may change its election in writing one time only; the election becomes effective the calendar year after the Commission approves the change.

Requires the PEO to file a list of all its client names, with employer identification numbers and contact information, and the PEO registration certificate within 30 days after the end of each quarter.



**RHODE ISLAND** HB 8206 SB 3117  
(P.L. 242) (P.L. 282)

ENACTED and EFFECTIVE July 1, 2014

Financing

Provides that, with respect to the provisions regarding an employer transferring its trade or business, or a portion thereof to another employer, in determining whether there is any common ownership, management, or control, the department may consider the following factors, which include, but are not limited to: any familial relationships, principals; or corporate officers; organizational structure; day-to-day operations; assets and liabilities; and stated business purposes.

Provides that, whenever a person who is not an employer at the time that person acquires the trade or business, or a portion thereof, of an employer in insolvency proceedings including federal bankruptcy courts, state receiverships, masterships, or other insolvency proceedings, the unemployment experience of the acquired business shall not be transferred to such person. Instead, such person shall be assigned the new employer rate unless the director finds that, at the time of the acquisition, there is common ownership, management, or control of the two employers, and in such case all of the experience will be transferred.

Provides that, whenever a person who is an eligible employer prior to the time that person acquires the trade or business, or a portion thereof, of an employer in insolvency proceedings including federal bankruptcy courts, state receiverships, mastership, or other insolvency proceedings, the unemployment experience of the acquired business shall not be transferred to such person. Instead, such person shall continue to pay employer contributions at the rate applicable to it prior to the date it made such acquisition unless the director finds that, at the time of the acquisition, there is common ownership, management, or control of the two employers, and in such case all of the experience will be transferred and a new rate computed.

**SOUTH DAKOTA** SB 69  
(CH 249)

ENACTED and EFFECTIVE March 14, 2014

Nonmonetary Eligibility

Provides that there is good cause for voluntarily leaving employment if the employee is an officer who exercises substantial control in decisions to take or not to take action on behalf of a corporation and has no other alternative than to leave employment with that corporation. This does not preclude a corporate officer who does not exercise substantial control in any decision to take or not to take action on behalf of a corporation from being found to have good cause to leave employment under the circumstances set out in the good cause for leaving employment provisions of the unemployment insurance law, inclusive.

**UTAH** SB 47  
(CH 376)

ENACTED April 1, 2014  
EFFECTIVE May 13, 2014

Administration

Provides that any out-of-state business that provides recovery services in the state during a declared state disaster or emergency during the disaster period is not considered to have established a level of presence that would require that business to be subject to any state licensing or registration requirements, provided that such business is in substantial compliance with all applicable regulatory and licensing requirements in its state of domicile, including unemployment insurance.

Provides that any out-of-state business or out-of-state employee that remains in the state after the disaster period will become subject to the state's normal standards for establishing presence or residency, or doing business in the state, and shall complete state and local registration, licensing, and filing requirements that establish the requisite business presence or residency in the state.

**VERMONT** HB 646  
(Act No. 173)

ENACTED June 5, 2014  
EFFECTIVE June 11, 2014,  
or as noted

#### Administration

Provides that, notwithstanding any other specific provisions, the Commissioner of Employment and Training may, where practicable, require of any employing unit (previously, units with 25 or more employees) that the reports required to be filed pursuant to certain subsections be filed in an electronic media form.

#### Extensions and Special Programs

Establishes a self-employment assistance program, effective June 4, 2014, as follows:

- “Full-time basis” means that the individual is devoting the necessary time as determined by the Commissioner to establish a business that will serve as a full-time occupation for that individual.
- “Regular benefits” shall have the same meaning as in subdivision 1421(5) of the Vermont unemployment compensation law.
- “Self-employment assistance activities” means activities approved by the Commissioner in which an individual participates for the purpose of establishing a business and becoming self-employed, including entrepreneurial training, business counseling, and technical assistance.
- “Self-employment assistance allowance” means an allowance payable in lieu of regular benefits from the Unemployment Compensation Fund to an individual who meets the program requirements.
- “Self-employment assistance program” means a program under which an individual who meets the program requirements is eligible to receive an allowance in lieu of regular benefits for the purpose of assisting that individual in establishing a business and becoming self-employed.
- The weekly amount of the self-employment assistance allowance payable to an individual shall be equal to the weekly benefit amount for regular benefits otherwise payable.

- The maximum amount of the self-employment assistance allowance paid shall not exceed the maximum amount of benefits established with respect to any benefit year.
- An individual may receive a self-employment assistance allowance if that individual:
  - is eligible to receive regular benefits or would be eligible to receive regular benefits except for the requirements described in subdivisions (2)(A) and (B) of this subsection;
  - is identified by a worker profiling system as an individual likely to exhaust regular benefits;
  - has received the approval of the Commissioner to participate in a program providing self-employment assistance activities;
  - is actively engaged on a full-time basis in activities, which may include training related to establishing a business and becoming self-employed; and
  - has filed a weekly claim for the self-employment assistance allowance and provided the information the Commissioner prescribes.
- A self-employment allowance shall be payable to an individual at the same interval, on the same terms, and subject to the same conditions as regular benefits except:
  - the requirements relating to availability for work, efforts to secure work, and refusal to accept work, are not applicable to the individual; and
  - the individual is not considered to be self-employed;
  - an individual who meets the program requirements shall be considered to be unemployed; and
  - an individual who fails to participate in self-employment assistance activities or who fails to actively engage on a full-time basis in activities, including training, relating to the establishment of a business and becoming self-employed, shall be disqualified from receiving an allowance for the week the failure occurs.
- The self-employment assistance allowance may be paid to up to 35 qualified individuals at any time.
- The Commissioner shall approve any program that will provide self-employment assistance activities to qualified individuals.
- The Commissioner shall adopt rules to implement this program.
- The Commissioner may suspend the self-employment assistance program with approval of the Secretary of Administration and notice to the House Committee on Commerce and Economic Development and the Senate Committee on Economic Development, Housing and General Affairs in the event that it presents unintended adverse consequences to the Unemployment Trust Fund.
- The self-employment assistance program shall be repealed on January 1, 2017.

### Financing

Provides that the self-employment assistance allowance shall be charged to the Unemployment Trust Fund. In the event that the self-employment assistance allowance cannot be charged to the

Unemployment Trust Fund, the allowance shall be charged in accordance with the experience rating provisions.

Provides that short-time compensation benefits paid to an employee shall be charged to the employers in the base period. (Previously, such benefits were charged to his or her short-time compensation employer's experience-rating records.) Reimbursable employers participating in the short-time compensation program shall be assessed for the short-time compensation benefits paid their employees.

Provides that the experience-rating record of an individual subject base-period employer shall not be charged for benefits paid to an individual if the individual voluntarily separated from that employer to accompany a spouse who is on active duty with the U.S. Armed Forces or who holds a commission in the foreign service of the United States and is assigned overseas.

#### Monetary Entitlement

Changes the weekly earnings disregarded from greater of 30 percent of gross wages or \$40 to 50 percent of gross wages.

#### Nonmonetary Eligibility

Provides that an unemployed individual shall be eligible to receive benefits with respect to any week if the individual has given written notice of resignation to his or her employer and the employer subsequently made the termination of employment effective prior to the date of termination as given in the notice. Provided that the claimant could not establish good cause for leaving work and was not discharged for misconduct or for gross misconduct, in no case shall unemployment benefits awarded exceed 4 weeks or extend beyond the date of separation as provided in the employee's notice to the employer.

Provides that an individual shall not be disqualified for benefits if the individual left such employment to accompany a spouse who:

- is on active duty with the U.S. Armed Forces and is required to relocate due to permanent change of station orders, activation orders, or unit deployment orders, and when such relocation would make it impractical or impossible, as determined by the Commissioner, for the individual to continue working for such employment unit; or
- holds a commission in the foreign service of the United States and is assigned overseas, and when such relocation would make it impractical or impossible, as determined by the Commissioner, for the individual to continue working for such employment unit.

**VERMONT** HB 885  
(Act No. 179)

ENACTED June 9, 2014  
EFFECTIVE July 1, 2014

#### Financing

Provides that, if an employing unit fails to comply adequately to the request for records containing employment, wage, and separation information with respect to a claimant within 10 days of the mailing or personal delivery of the request, the Commissioner shall determine the benefit rights of a claimant upon such information as is available. Prompt notice in writing of the determination shall be given to the employing unit. The determination shall be final with respect to a noncomplying employer as to any charges against its experience-rating record for benefits paid to the claimant before the week following the receipt of the employing unit's reply. The employing unit's experience rating record shall not be relieved of these charges, notwithstanding any other provisions, unless the Commissioner determines that failure to comply was due to unavoidable accident or mistake.

#### Overpayments

Provides that the collected amount of the 15 percent additional penalty on the amount of overpaid benefits due because of a person's intentional misrepresentation or failure to disclose a material fact on the benefit claim shall be deposited in the state's unemployment compensation fund.